

Docket No.: SANZ-253

REMARKS

Entry of this amendment and reconsideration of this application, as amended, are respectfully requested.

Claims 1-7, 9-15 and 17-18 were rejected under 35 U.S.C. §103 for allegedly being unpatentable over Morrison, Lehan and Hughes. Claims 8 and 16 were rejected under the same statute over the foregoing combination in view of Tsukasa. Applicants respectfully traverse, as the Examiner's reasoning is based on impermissible hindsight.

Although a combination of a plurality of documents is in principle allowable, it has to be obvious from the state of art cited that these documents include a motivation for a person skilled in the art to combine these documents. (In re Fout, 675 F. 2d 297, 213 USPQ 532 (CCPA 1982).

Also," It is impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art". (In re Hedges, 783 F.2d 1038, 228 USPQ 685 (Fed. Cir. 1986); also In re Wesslau 353 F.2d 238, p. 241, 147 USPQ 391, p. 393 (CCPA 1965)).

Turning now to the cited references, Morrison does not disclose the shape of the plasma tube and magnets moving over a target. Parameters "d", "B", "C" and "W" and their relationship to each other are not disclosed. The special relationship between these parameters, i.e., the condition  $B \leq d$  being fulfilled, is derived from the shape of the plasma tube. Because of  $W = C$  and  $B \leq d$  erosion depression at the margin of the target in a linear sputter installation can be avoided.

However, by moving the magnets over the target, the erosion depression at the margin is also avoided.

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Thus, according to Morrison, there is only one problem to be solved, i.e., to provide a linear sputter installation with which erosion depression at the margin can be avoided.

It is respectfully submitted that the Examiner did not take into consideration that only the objective evidence present in the application indicating obviousness or non-obviousness may be considered (In re Graham v. John Deere Co., 383, U.S. 1,148 USPQ 459 (1966)).

Lehan only concerns only cylindrical magnetrons having a rotatable cylindrical target (see, e.g., the claims of Lehan). It is a goal of Lehan to increase the utilization rate of target material in cylindrical magnetrons in a manner that the magnetron device efficiency is maintained and the plasma remains stable (page 3, lines 25-28).

The present invention, however, refers to planar magnetrons.

Thus, Lehan has little to do with the present invention. It is respectfully submitted that a person skilled in the art would therefore not combine Lehan with Morrison, because the skilled artisan knows that rotatable magnetrons have completely different properties.

Thus, the combination is an ex post facto analysis, because the subject matter of Lehan has to be fully appreciated. The exclusion of parts of this reference is impermissible within the framework of section 103 (In re Hedges).

Even if one combines these two references, the condition  $W \approx C$  and  $B \leq d$  is still not fulfilled, because the parameters in Lehan refer to a racetrack of cylindrical magnetrons.

Hughes, though referring to a planar target, does not disclose the condition  $B \leq d$ , for instance.

Therefore, a combination of Morrison and Hughes does not teach nor suggest each element of the pending claim 1.

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The same is true for pending claim 2, since Lehan cannot be combined with Morrison because Lehan is silent about planar targets. Thus, the combination of Morrison and Hughes does not teach or suggest all features of claim 2.

Since the combination of Morrison and Lehan do not render claims 1 and 2 unpatentable, claims 3-7, 9-15 and 17-18 are believed to be allowable as well. Tsukasa, cited only against claims 8 and 16, does nothing to remedy the deficiencies of the combination of Morrison and Lehan, so these claims are also believed to be allowable.

Any fees due for entry of this amendment, or to otherwise maintain pendency of this application may be charged to deposit account no: 50-0624.

Respectfully submitted

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